

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

17 CR 509 (RA)

5 PAUL HAVERKAMP,

6 Defendant.

7 -----x  
8 New York, N.Y.  
9 December 14, 2018  
3:05 p.m.

10 Before:

11 HON. RONNIE ABRAMS,

12 District Judge

13  
14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the  
Southern District of New York

17 ALINE R. FLODR

Assistant United States Attorney

18 FEDERAL DEFENDERS OF NEW YORK INC. (NYC)

Attorneys for Defendant

19 BY: JULIA L. GATTO

20 ALSO PRESENT: Aaron Spivack, FBI  
21  
22  
23  
24  
25

1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your name for  
3 the record.

4 MS. FLODR: Good afternoon, your Honor. Aline Foldr  
5 on behalf of the United States, and with me at counsel table is  
6 Special Agent Aaron Spivack.

7 THE COURT: Good afternoon.

8 MS. GATTO: Good afternoon, your Honor. Federal  
9 Defenders of New York by Julia Gatto for Mr. Haverkamp.

10 THE COURT: Good afternoon.

11 Good afternoon to you, Mr. Haverkamp.

12 So this matter is on for sentencing. Mr. Haverkamp  
13 pled guilty on June 15 before Magistrate Judge Gorenstein to  
14 receipt and distribution of child pornography and possession of  
15 child pornography, and I accepted that plea on June 29.

16 In connection with today's proceeding, I've reviewed  
17 the following submissions: The presentence investigation  
18 report which was revised as of December 7; Mr. Haverkamp's  
19 sentencing memorandum dated November 29 with various  
20 accompanying exhibits; the government's sentencing memorandum  
21 dated December 7 with an accompanying exhibit; and victim  
22 impact statements which were submitted on June 21, June 26, and  
23 September 25.

24 Have the parties received each of these submissions?

25 MS. FLODR: Yes, your Honor.

1 MS. GATTO: Yes, your Honor.

2 THE COURT: So let's begin by discussing the  
3 presentence report which was prepared by the United States  
4 Probation Office.

5 Ms. Gatto, have you reviewed the presentence report  
6 and discussed it with your client?

7 MS. GATTO: I have, your Honor.

8 THE COURT: Other than the five-point enhancement  
9 pursuant to guideline Sentence 2G2.2(b)(5) which is discussed  
10 at paragraph 54 of the presentence report, do you have any  
11 other objections to the report?

12 MS. GATTO: I do not, your Honor.

13 THE COURT: Mr. Haverkamp, have you read the  
14 presentence report and had enough time to discuss it with your  
15 attorney?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Thank you.

18 Does the government have any objections to the report?

19 MS. FLODR: No, your Honor.

20 THE COURT: So the Court adopts the factual findings  
21 in the report. The presentence report will be made a part of  
22 the record in this matter and placed under seal. If an appeal  
23 is taken, counsel on appeal may have access to the sealed  
24 report without further application to the Court.

25 Mr. Haverkamp, when you pled guilty in June, you

1 discussed the federal sentencing guidelines with  
2 Magistrate Judge Gorenstein.

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: And as he noted then and as you know, they  
5 are a set of rules. They're published by the United States  
6 Sentencing Commission. Just for those of you who don't know  
7 what they are, they are contained in this book here, and  
8 they're designed to guide judges when judges impose sentence.

9 Although at one time the guidelines were mandatory,  
10 meaning that judges were required to follow them, they're no  
11 longer binding on judges. But nonetheless, judges must  
12 consider them when determining an appropriate sentence.

13 So, Ms. Gatto, just to confirm, you agree with the  
14 guidelines calculation in the Pimentel letter; correct?

15 MS. GATTO: I do.

16 THE COURT: Do you want to be heard further on the  
17 applicability of the five-point enhancement?

18 MS. GATTO: Unless the Court wants to hear from me. I  
19 think the position is clear in our papers. But to the extent  
20 it isn't --

21 THE COURT: No. I think it is, and I understand that  
22 the government takes no position on it. Ultimately I think  
23 that there is insufficient evidence in the record to support  
24 the enhancement. So I'm not going to apply the enhancement.

25 In light of that conclusion, I do adopt the guidelines

1 range outlined in the Pimentel letter, and I find that  
2 Mr. Haverkamp's offense level is 32, his criminal history  
3 category is I, and his recommended guideline sentence is 121 to  
4 151 months in prison.

5 As you know, there's a mandatory minimum sentence of  
6 60 months, of five years. As I said a moment ago, the  
7 guidelines range is only advisory. Courts may impose a  
8 sentence outside of that range based on one of two legal  
9 concepts, a departure or a variance.

10 A departure allows for a sentence outside of the  
11 advisory range based on some provision of the guidelines  
12 themselves. I understand that the defendant is not seeking a  
13 departure but, rather, just a variance pursuant to the factors  
14 set forth in 18 U.S. Code, Section 3553(a).

15 Is that right?

16 MS. GATTO: Yes, your Honor.

17 THE COURT: Nonetheless, I've considered whether there  
18 is an appropriate basis for departure from the advisory range  
19 within the guidelines and conclude that no such grounds exist.  
20 I do though, as I said, have the power to impose a  
21 non-guideline sentence pursuant to a variance when I think it's  
22 appropriate to do so.

23 I'll hear from the parties now.

24 Would the government like to be heard with respect to  
25 sentencing?

1 MS. FLODR: Yes, your Honor, briefly. As the  
2 government has set out in its sentencing submission, the  
3 conduct at issue here, the offense conduct, is extremely  
4 serious.

5 This is one of those crimes that, you know, should be  
6 punished across the distribution chain, not just the people who  
7 actually produce and create this heinous material but also the  
8 people like Mr. Haverkamp who were responsible for distributing  
9 hundreds of these images and videos reflecting some of the  
10 worst, most egregious forms of child pornography in this case,  
11 including depictions of masochism and sadistic actions taken  
12 against prepubescent children.

13 In this case, moreover, after an electronic forensic  
14 review of his electronic devices, the FBI was able to find that  
15 Mr. Haverkamp spoke to over 70 other KIK users where there was  
16 evidence that he was discussing the distribution of child  
17 pornography with those users.

18 Unfortunately, we were never able to make sure or  
19 conclusively determine that he in fact did distribute, but  
20 there is evidence and admissions from the defendant himself  
21 where he did say that he also engaged individuals who  
22 identified themselves as young as 14 years old, 13-year-olds,  
23 to have them distribute child pornography to him, either  
24 already produced or of themselves.

25 So he also engaged, according to him, in the request

1 for the creation of new child pornography from these  
2 individuals that he was having these discussions with.

3 THE COURT: Can I just follow up on that.

4 So in your letter, you note that. So you say that the  
5 defendant admitted that he communicated with at least five  
6 minors from whom he requested pornography and to whom he may  
7 have sent nude pictures of himself.

8 MS. FLODR: Yes.

9 THE COURT: And then later, a couple lines later, you  
10 say: "Even more alarmingly, the defendant's interest in  
11 children went well beyond mere fantasy as the defendant  
12 self-reported having multiple contacts with young teenagers,  
13 including a 14-year-old girl he met on KIK, a 14-year-old boy  
14 that the defendant met in a school parking lot to engage in  
15 mutual masturbation, and a girl who he met online who had  
16 claimed to be 17 but ultimately turned out to be 13 years old."

17 Then it goes on to discuss the abuse of his  
18 stepbrother when he was 13 or 14, when Mr. Haverkamp was, and  
19 the child was two years old.

20 Just to be clear, aside from the 14-year-old boy or  
21 boy who appears to be 14 with whom he engaged in mutual  
22 masturbation, did he actually meet the 14-year-old girl and the  
23 13-year-old girl? Did he meet them?

24 MS. FLODR: Give me one moment, your Honor, to  
25 confirm.

1 THE COURT: Sure. I'm sorry to interrupt. Are these  
2 people categorized in the group of five minors from whom he  
3 sought child pornography?

4 MS. FLODR: I believe it's the latter, your Honor, but  
5 let me confirm.

6 (Discussion off the record)

7 MS. FLODR: Your Honor, I have confirmed with  
8 Special Agent Aaron Spivack, and it's actually the only contact  
9 that he admitted to like in person was the 14-year-old boy and  
10 of course his stepbrother. The other two individuals that were  
11 listed in the sentence that your Honor just read were  
12 individuals that he engaged in these conversations online with.

13 THE COURT: That's what I thought. The way the  
14 sentence was structured, I just wanted to make sure that was  
15 accurate.

16 Please proceed.

17 MS. FLODR: Your Honor, I think that is the crux of  
18 the government's position as to why in this case we believe  
19 that although we have requested that based on other  
20 circumstances, that your Honor give a below-guideline sentence  
21 of below the 121 months, we also think that given the offense  
22 conduct in this case and the fact that this is distribution but  
23 distribution of the highest kind, of hundreds of images, as  
24 well as videos, we believe that a substantial term of  
25 imprisonment above the 60-month mandatory minimum is warranted



1 in this case.

2 THE COURT: All right. Thank you.

3 Do any victims wish to be heard? I've obviously read  
4 the victim impact statements, but do any victims wish to be  
5 heard today?

6 MS. FLODR: Your Honor, we have not heard from any  
7 victims. They have all been notified that this proceeding was  
8 happening today.

9 THE COURT: All right. Thank you.

10 Ms. Gatto, would you like to be heard?

11 MS. GATTO: Yes, your Honor. Let me just start by  
12 pointing out that Mr. Haverkamp's mother has flown in from  
13 Michigan. She's here in the audience, along with the social  
14 worker from my office who's been working very closely with  
15 Mr. Haverkamp, as well as the paralegal who works on the case.

16 THE COURT: Thank you all for being here today.

17 MS. GATTO: What's important and what I would really  
18 like to focus on is the conduct is very serious, and there is  
19 no one on this side -- and I know that Mr. Haverkamp wants to  
20 speak directly to the Court about it. There is no one on this  
21 side that denies that. It's disturbing. It's serious. It's  
22 worthy of punishment. There is no question about that.

23 This is a case with a five-year mandatory minimum.  
24 I'm sure the Court has seen cases similar, similar charges  
25 without that five-year mandatory minimum.

1 I think part of the five-year mandatory minimum is  
2 because the conduct is serious. His history does certainly go  
3 beyond just looking at material, and I think that the five-year  
4 mandatory minimum captures that.

5 What I'd like to focus on, and I think that this is  
6 important. You see this in lots of cases -- I have -- where  
7 there's a fragility to the human, a sickness, something that  
8 can be addressed. And there have been points in  
9 Mr. Haverkamp's life where I think there could have been  
10 intervention, and there was none.

11 He really -- he's needed treatment and counseling of a  
12 profound nature for a very long time. He was exhibiting  
13 troubling behavior at a very young age. He clearly wasn't  
14 processing difficult things that were happening in his life  
15 starting from when he himself was a minor, but it was repressed  
16 as a whole confluence of reasons why, and I'm not sure that we  
17 need to get into that.

18 I think the point is there has been no help for him,  
19 and this is an individual that is incredibly poised to take in  
20 help. And I want him desperately to talk to the Court because  
21 this is an individual -- when you speak to him, it is clear he  
22 is very self-reflective. He is very thoughtful. He is very  
23 remorseful, and he's also very in need and able to take help.

24 THE COURT: It took an arrest to make him so  
25 self-reflective and thoughtful?

1 MS. GATTO: I think so. Maybe it is worthy to go  
2 through the reasons why he repressed it all. I think that  
3 because of his background, largely a very conservative  
4 Christian background, there was this lesson from early on, just  
5 push it down.

6 When you're pushing it that down, when it comes up, it  
7 comes up in really disgusting, awful ways. So, yes. I think  
8 that the solitariness of prison, the guidelines ranges that  
9 have been going from ten years to 210 months -- I think all of  
10 that process -- the FBI coming in and him sitting down. I know  
11 he'll talk about that moment with the Court.

12 All of that is yeah, I need help. He wasn't given  
13 outlets to turn to. I'm not saying that minimizes it. I'm not  
14 saying any of that. I'm just saying that this is someone who  
15 can be helped. And part of this system is not just punishment,  
16 but it's rehabilitation for two reasons. It's for him and for  
17 the public.

18 We keep individuals in jail for incapacitation to  
19 protect the public but also to make them in a place where they  
20 can go back and reenter safely, transition. And this  
21 individual is going to be able to do that.

22 He has not been receiving sex offender specific  
23 treatments right now because they're not available at the MCC.  
24 Yet he's still trying to take advantage of everything he can.  
25 He has worked more closely with my social workers than any

1 individual I've been working with.

2 He participates in all the activities -- journaling,  
3 diary writing, counseling sessions with them. He's the one who  
4 said to me, can you give me more information about what the sex  
5 offender treatment programs in the BOP look like. And it's the  
6 first time I've really dug deep into them.

7 THE COURT: I was going to ask a question about that.  
8 You referenced in your letter that he won't get treatment, that  
9 kind of treatment, until the last three years of his sentence.  
10 Is that right?

11 MS. GATTO: Yes.

12 THE COURT: So if he's sent to a place like Butner,  
13 you've confirmed that he won't actually get any kind of  
14 treatment, sex offender treatment, until the last three years  
15 of his sentence?

16 MS. GATTO: Butner, there's treatment, but it's not  
17 sex offender specific, your Honor. It's not the inpatient  
18 program. So the inpatient program that is designed exactly for  
19 the frailty that is at the base here is not at Butner. It's at  
20 Devens and Marion. And that is only available in the last  
21 three years, and it's an intensive three year program.

22 Will he receive no treatment? Hopefully he'll get  
23 mental health treatment, but it's going to be far more generic.  
24 I'm not saying it won't be useful.

25 THE COURT: Even at the facilities where there's a

1 large population of sex offenders?

2 MS. GATTO: I don't know if their mental health  
3 counseling is now being focused on that, but it's certainly not  
4 sex offender specific treatment.

5 Now, they may -- I know that there are other  
6 facilities where there's a lodger population of sex offenders.  
7 As that population grows in more general population facilities,  
8 if their counselors are responding, that I certainly haven't  
9 confirmed, and I don't know.

10 But the sex offender specific programs that have been  
11 designed for sex offenders when they're in or out that are  
12 designed to go to the roots that you sometimes universally,  
13 those are only at Devens and Marion. They're inpatient  
14 programs, and they're only available for the last three years.

15 I think it's very compelling, your Honor, that there  
16 could be -- our proposal, which is a very significant  
17 sentence -- five years is not a short period of time.

18 This is an individual whose never been in jail. This  
19 is certainly an individual who has issues, who's committed  
20 crimes, who has certainly on the ledger of wrongfulness things  
21 to report but also on the ledger of worthiness things to  
22 report.

23 He's always been employed. He was married. He has  
24 relationships in the communities that I think speak to his  
25 character. He's involved in volunteering even at the prison.

1 As soon as he got in there, he got himself on the  
2 suicide watch team which is a work detail different than the  
3 kitchen. It's much more emotional. It's something he's really  
4 derived value out of helping other humans.

5 So for this individual, I don't want to minimize and  
6 just say, oh, just because I'm asking for the mandatory  
7 minimum, this isn't a long term. It is a longer term of  
8 imprisonment.

9 THE COURT: It is a long term. He's young. So even  
10 if he got a guideline sentence, if he got good time, he'd be  
11 out in his 30's.

12 MS. GATTO: Sure, your Honor.

13 THE COURT: I'm not minimizing the length of that  
14 sentence in any way. I'm just putting it in the perspective of  
15 how old he is. But I agree with you a hundred percent that a  
16 five-year sentence is a long sentence.

17 MS. GATTO: Yes. And it's I think also helpful always  
18 for my clients to hear that there's hope, to know that you're  
19 going to get out when you're still young. But that's the thing  
20 that I have really watched in Mr. Haverkamp which I admire is  
21 this is an optimistic, hopeful person, a realist who has  
22 expressed multiple times, I need help. I want help. I don't  
23 want to return to this behavior.

24 A sentence of five years in jail, all of the rest of  
25 it, which will be spent in an intensive program that is

1 designed for someone with these issues and then five years of  
2 supervised release to go immediately from the inpatient program  
3 focused treatment to transitioning into the community with  
4 outpatient, with monitoring devices, which is the kind of  
5 seamless transition from the inpatient to the outpatient  
6 setting, what we're asking for, your Honor, would be -- it's  
7 going to be eight years of treatment, the sentence I'm  
8 proposing, five of those being spent in an incarceratory  
9 setting and the rest spent on supervision.

10           So it is a minimal sentence when you look at all of  
11 the reasons we sentence someone, including punishment,  
12 incapacitation. But it's a meaningful sentence when we look at  
13 the purposes of rehabilitation and what that means for  
14 deterrence, specific deterrence, and protecting the public.

15           So I've thought long and hard. I know these cases are  
16 difficult for a million reasons, a million reasons, including  
17 that the guidelines don't really, as the Second Circuit has  
18 recognized, provide the same kind of guidance it does in other  
19 cases because the numbers are so high. Sometimes we lose sight  
20 when we see what high numbers, what a proportionate sentence  
21 is.

22           Having said all that, your Honor, I think that five  
23 years is sufficient but not greater than necessary.

24           THE COURT: All right. I just have one question about  
25 your letter, your submission.

1           It seems like you said a number of times that he's not  
2 a pedophile, and I don't think we need to debate exactly what  
3 that means and if he is or if he isn't. But he clearly has  
4 sexual interest in children, and even the report noted his  
5 sexual interest in and arousal with respect to an  
6 eight-year-old girl and even after noting the results of the  
7 Abel assessment, noted that it doesn't explain his track record  
8 of seeming sexual interest in children.

9           MS. GATTO: I think absolutely it's always hard, but  
10 it's hard to understand his Abel results with the conduct, but  
11 what I really think is happening here -- and this is supported  
12 by Dr. Prenky (phonetic) and our social workers' evaluation --  
13 is that this is somebody who was participating in the  
14 possession and distribution of child pornography, participating  
15 in the online community of people who were exchanging this  
16 stuff, less because of a sexual interest, but there's a  
17 confused sexuality component of course, but more this  
18 community, this idea of someone who was socially inept finding  
19 a place of what he would call deviants like himself online.

20           It is less about a desire to do the things he sees, to  
21 do the things that other people in those chatrooms are talking  
22 about, and more the desire to feel accepted because he's always  
23 felt different. He's always been embarrassed and shamed by his  
24 sexuality because of the various constellation of events from  
25 his childhood. And it's less about his desire to engage in



1 sexual contact with a minor.

2 THE COURT: Although he has engaged in sexual contact  
3 with a minor.

4 MS. GATTO: Yes, your Honor.

5 THE COURT: I know. Thank you.

6 Mr. Haverkamp, I'm happy to hear anything you'd like  
7 to say today.

8 THE DEFENDANT: Thank you, Judge Abrams.

9 I want to say that what I did was wrong. My conduct  
10 was disgusting; disgraceful; and most of all, hurtful. I want  
11 to express my remorse to all the people that I have hurt.

12 I'm here today to tell you that I will never commit  
13 this behavior again. I just have nothing but regret for my  
14 actions, and knowing how much I hurt the people closest to me,  
15 I never want to hurt them again. And I never want to hurt  
16 anyone else in the future.

17 Along with that, I also want to let you know that I  
18 don't ever want to go back to the person who I used to be  
19 before that morning when the FBI came in my door. I was  
20 ignoring my problems, I wasn't taking responsibility, and I  
21 wasn't making efforts to get better.

22 Even though that morning was rock bottom for me, since  
23 then, I have just been trying as hard as I possibly can to take  
24 responsibility and to seek out treatment and, with treatment,  
25 to start working with those skills, making them part of my

1 daily routine, and try to get better.

2 Now that I've been spending weekly sessions with a  
3 social worker, I have been noticing some improvement. I know  
4 that I still have a long way to go. I feel that I would  
5 benefit from more therapy and more intensive programming for  
6 sex offenders.

7 I know that I need to stay with this and not just  
8 through the remainder of my prison time, but I need to stay  
9 with this treatment and counseling long after and beyond the  
10 supervised release and even beyond then.

11 I know that I have so much more work to do, but I know  
12 that not only do I owe it to the people that I hurt, but I owe  
13 it to myself to get better, and I never want to go back to the  
14 person who ignores problems.

15 That's just what I wanted you to know today, that what  
16 I did was absolutely wrong. My iconic was terrible, and I will  
17 always regret it. But at the same time, knowing that I've  
18 started to improve with my mental health, as well as my  
19 physical and spiritual health, I just don't want to go back to  
20 where I was before.

21 I like the improvement that I've already been making,  
22 and I just want to keep on going down that right path so I can  
23 return to society, be a functioning member of my community.  
24 And I want to be a healthy person.

25 THE COURT: All right. Thank you.

1 I hope what you said is true. I hope you continue to  
2 participate in this kind of not only self-reflection but  
3 therapy and other programs that may be of assistance, and I  
4 hope that they ultimately are of assistance.

5 So in imposing sentence, I'm required to consider the  
6 advisory guidelines range of 121 to 151 months in prison, but I  
7 cannot and do not presume that a guideline sentence is  
8 reasonable. Rather, I must make my own independent review of  
9 the factors that are outlined in a provision of the law. It's  
10 18 U.S. Code, Section 3553(a), and I have done so.

11 Those factors include but are not limited to the  
12 nature and circumstances of the offense and the personal  
13 history and characteristics of the defendant.

14 Judges are also required to consider the need for the  
15 sentence imposed to reflect the seriousness of the offense,  
16 promote respect for the law, provide just punishment for the  
17 offense, afford adequate deterrence to criminal conduct,  
18 protect the public from future crimes of the defendant, and  
19 avoid unwarranted sentencing disparities among other things.

20 So first I've considered the nature and circumstances  
21 of the offense which I think we all agree is undoubtedly a  
22 serious one. In the month alone when Mr. Haverkamp was  
23 corresponding with the undercover officer, he exchanged over  
24 400 messages and sent approximately 35 images and video files  
25 depicting the sexual abuse and exploitation of prepubescent

1 children including infants and toddlers.

2           Among the many horrific images of the ones that I  
3 viewed are the ones of a child aged one to two wearing a diaper  
4 with an adult man forcing his erect penis in her mouth and of a  
5 six- to eight-year-old tied to a pole with a red gag ball in  
6 her mouth.

7           Mr. Haverkamp was trading these images, the  
8 memorialization of rape and molestation and abuse of the most  
9 vulnerable among us like they were baseball cards.

10           I've read the victim impact statements from the  
11 victims depicted in some of these images who describe not only  
12 how the initial abuse by their family members or caretakers or  
13 other people in their lives who abused their trust had that  
14 initial abuse not only destroyed their lives, but how they feel  
15 victimized all over again every day by people like  
16 Mr. Haverkamp who pass along these images, these videos and  
17 images of the torment of these children for their enjoyment.

18           In my view, a serious sentence must be imposed to  
19 provide just punishment and to try and deter others from  
20 keeping this grotesque market -- to keep it from staying alive.

21           The defendant also sent photos of his minor nieces and  
22 nephews, albeit clothed, to the undercover to continue  
23 conversations about engaging in hands-on contact with children.

24           In asking that he be sentenced to the full extent of  
25 the law, the mother of three of those children, the sister of

1 his wife, noted that while she doesn't believe that he  
2 physically abused her children, he often sought to be alone  
3 with her children who are now aged nine, seven, and two.

4 After a search warrant was executed, Mr. Haverkamp  
5 admitted to trading in child pornography with approximately 50  
6 other individuals and exchanging over 20 cloud links with child  
7 pornography.

8 According to the presentence report, the FBI has  
9 identified over 70 KIK users with whom he had thousands of  
10 lines of chat and to whom it appears that he distributed child  
11 pornography. That said, we don't know the full scope of the  
12 defendant's conduct because he deleted the KIK accounts before  
13 the FBI executed its search.

14 Even more troubling, Mr. Haverkamp admitted to  
15 sexually abusing his two-year-old stepbrother when he himself  
16 was 13 or 14; to engaging in what was described as mutual  
17 masturbation with a boy he believed to be 14 when he,  
18 Mr. Haverkamp, was 25; as well as to communicating with at  
19 least five minors online from whom he requested nude pictures  
20 encouraging them to create their own child pornography.

21 In light of this conduct, the sentence imposed must  
22 reflect the seriousness of the offense; afford adequate  
23 deterrence, both specific and general; and protect the public  
24 from future crimes of this defendant.

25 I've also considered all of the arguments made by

1 defense counsel, including that this is Mr. Haverkamp's first  
2 criminal conviction; that he has accepted responsibility for  
3 his crimes.

4 He appears to be genuinely remorseful, which I don't  
5 doubt; that he's interested in improving himself and in  
6 rehabilitating himself, which I also don't doubt at this moment  
7 in time.

8 And I'll also note that while he's been at the MCC,  
9 he's volunteered to be a companion to incarcerated individuals  
10 on suicide watch and is tutoring individuals who are studying  
11 for their GED, and those are all impressive activities and good  
12 things to be doing.

13 I've read the letters submitted by family and friends  
14 and members of the defendant's community. I've considered not  
15 only the obstacles Mr. Haverkamp faced growing up, but I've  
16 considered the collateral consequences of being designated a  
17 sex offender.

18 Finally, I've considered the need to avoid unwarranted  
19 sentencing disparities, and I've reviewed the cases cited by  
20 the defendant. I'll just note, however, that this circuit has  
21 approved numerous sentences for possession and distribution of  
22 child pornography akin to the one within this guidelines range,  
23 including those which didn't involve in-person or even any  
24 contact with children. See e.g. *United States v. Forrest*, 639  
25 F. App'x 30 at 34. That's the Circuit from 2016 affirming a

1 sentence of 151 months for a defendant who was convicted of  
2 distributing child pornography where his personal history did  
3 not include sexual contact with children.

4 *United States v. Light*, 2018 WL 6179010 at 1. That's  
5 the Circuit from 2018 affirming a sentence of 151 months'  
6 imprisonment which was within the guidelines range for a  
7 defendant convicted of child pornography possession where the  
8 defendant did not have contact with any children.

9 And *United States v. Pulsifer*, 469 F. App'x 41 at 43,  
10 the Circuit in 2012 affirming a sentence of 121 months'  
11 imprisonment for transporting and distributing child  
12 pornography where the defendant's only sexual contact with  
13 children was over a webcam. So I've considered all those  
14 factors, and I am ready to impose sentence.

15 Mr. Haverkamp, could you please rise.

16 It's the judgment of this Court that you be committed  
17 to the custody of the Bureau of Prisons for a term of 121  
18 months on each count to run concurrently to be followed by a  
19 term of supervised release of five years on each count also to  
20 run concurrently.

21 I believe this sentence is sufficient but not greater  
22 than necessary to comply with the purposes of sentencing set  
23 forth in the law. If you'd like, you can be seated while I  
24 read the conditions of your supervised release, as well as the  
25 other details of your sentence.

1 All the standard conditions of supervised release  
2 shall apply. They're on page 32 and 33 of the presentence  
3 report. I'm not going to read them aloud unless someone wants  
4 me to.

5 The mandatory conditions of supervised release shall  
6 apply. You must not commit another federal, state, or local  
7 crime. You must refrain from any unlawful use of a controlled  
8 substance.

9 The probation department recommends that the drug  
10 testing condition be suspended based on its determination that  
11 you're a low risk of future substance abuse. So I'll suspend  
12 that normally mandatory condition.

13 You must cooperate in the collection of DNA as  
14 directed by the probation officer. And you must comply with  
15 the requirements of the Sex Offender Registration and  
16 Notification Act, 42 U.S. Code, Section 16901, as directed by  
17 the probation officer, the Bureau of Prisons, or any state sex  
18 offender registration agency in which you reside, work, are a  
19 student, or were convicted of a qualifying offense.

20 In addition, the probation department recommends  
21 certain special conditions of supervised release. I'm going to  
22 impose some but not all of them.

23 So you'll be supervised in the district of your  
24 residence. You must not have deliberate contact with any child  
25 under 18 years of age unless approved by the probation



1 department.

2           You must not loiter within 100 feet of schoolyards,  
3 playgrounds, arcades, or other places primarily used by  
4 children under the age of 18.

5           In addition, you must undergo a sex offense specific  
6 evaluation and participate in an outpatient sex offender  
7 treatment and/or outpatient mental health treatment program  
8 approved by the United States Probation Office.

9           You must abide by all rules, requirements, and  
10 conditions of the sex offender treatment program, including  
11 submission to polygraph testing.

12           You must waive your right of confidentiality in any  
13 records for mental health assessment and treatment imposed as a  
14 consequence of this judgment to allow the probation officer to  
15 review your course of treatment and progress with the treatment  
16 provider.

17           You must contribute to the cost of services rendered  
18 based on your ability to pay and the availability of  
19 third-party payments.

20           The Court authorizes the release of available  
21 psychological and psychiatric evaluations and reports,  
22 including the presentence investigation report, to the sex  
23 offender treatment provider and/or mental health treatment  
24 provider.

25           You must submit your person, residence, place of

1 business, vehicle, and any property, computers as defined in  
2 18 U.S. Code, Section 1030(e)(1), electronic communications,  
3 data storage devices and/or other media under your control to a  
4 search on the basis that the probation officer has reasonable  
5 suspicion that contraband or evidence of a violation of the  
6 conditions of your supervised release may be found.

7 This search must be conducted at a reasonable time and  
8 in a reasonable manner. Failure to submit to a search may be  
9 grounds for revocation. You must inform any other residents  
10 that the premises may be subject to search pursuant to this  
11 condition.

12 Finally, with respect to the conditions of your  
13 supervised release, you must participate in the computer  
14 Internet monitoring program administered by the U.S. Probation  
15 Office.

16 You must provide the U.S. Probation office advance  
17 notification of any computers, automated services, or connected  
18 devices that will be used during the term of supervision and  
19 that can access the Internet.

20 The U.S. Probation Office is authorized to install any  
21 application that's necessary to survey all activity on  
22 computers or connected devices owned or operated by you.

23 You may be required to pay the cost and monitoring  
24 services at the monthly rate provided by the U.S. probation  
25 officer. The rate and payment schedule are subject to periodic

1 adjustments by the U.S. Attorney's Office.

2 The U.S. Probation Office shall be notified via  
3 electronic transmission of impermissible suspicious activity or  
4 communications occurring on such computer or connected device  
5 consistent with the computer monitoring policy in effect by the  
6 probation officer as triggered by impermissible suspicious  
7 activity. You must consent to and cooperate with unannounced  
8 examinations of any computer equipment owned or used by you.

9 The examination shall include but is not limited to  
10 retrieval and copying of all data from the computer, connected  
11 devices, storage media, and any internal or external  
12 peripherals and may involve removing of such equipment for the  
13 purpose of conducting a more thorough inspection.

14 I'm going to impose the fine under the Justice for  
15 Victims of Trafficking Act of 2015. So that's \$5,000 per  
16 count. So that's a \$10,000 fine. Unless there's an objection  
17 from the parties, I'll order the schedule.

18 Is the government proposing a particular schedule for  
19 this, or is there one in the PSR?

20 MS. FLODR: Your Honor, are you speaking about the  
21 fine or the restitution?

22 THE COURT: I was actually just talking about the fine  
23 for the time being. I think restitution you wanted some  
24 additional time; is that right?

25 MS. FLODR: Yes, your Honor. We do not have a

1 schedule, and I don't think it's included as far as I saw for  
2 the fine in the PSR.

3 THE COURT: Is there any one you would propose?

4 MS. FLODR: Your Honor, I don't have a schedule to  
5 propose for this.

6 THE COURT: Do you have a request with respect to the  
7 fine, Ms. Gatto? If not, I just won't put anything in there  
8 for now.

9 MS. GATTO: I don't.

10 THE COURT: I'm required to impose the mandatory  
11 special assessment of \$200 or fee, and that shall be paid  
12 immediately.

13 As I said, I understand that the parties are trying to  
14 work out an agreement with respect to restitution. So why  
15 don't you get back to me on that within 30 days if you could.  
16 And if we need to have a hearing, we'll do that.

17 The government is not seeking forfeiture in addition  
18 to restitution. Is that correct?

19 MS. FLODR: Your Honor, we are in fact seeking  
20 forfeiture. We have handed up a preliminary order of  
21 forfeiture that has been signed by our office.

22 THE COURT: I see it now. I'm sorry. I had not seen  
23 it. So just give me a minute to read that.

24 (Pause)

25 THE COURT: I'll just note for the record that it's a

1 consent preliminary order of forfeiture.

2 I'll just note that I'm going to make this consent  
3 preliminary order of forfeiture part of the judgment. In it,  
4 among other things, the defendant is consenting to the  
5 forfeiture of all his right, title, and interest in the  
6 following specific property: One HTC cellular telephone.  
7 Actually, two HTC cellular telephones, and they bear different  
8 serial numbers. This constitutes property obtained from the  
9 offenses or property used or intended to be used to commit the  
10 offenses charged in Counts One and Two of the indictment. I'm  
11 going to sign off on this as well.

12 Does either counsel know of any legal reason why this  
13 sentence cannot be imposed as stated?

14 MS. FLODR: No, your Honor.

15 MS. GATTO: Your Honor, for purposes of the record, we  
16 think that this sentence is far greater than necessary, but  
17 other than that, no, your Honor.

18 THE COURT: That's the sentence of this Court. You  
19 have a right to appeal your conviction and sentence,  
20 Mr. Haverkamp, except to whatever extent you may have validly  
21 waived that right as part of your plea agreement.

22 If you do choose to appeal, the notice of appeal must  
23 be filed within 14 days of the judgment of conviction. If  
24 you're not able to pay for the costs of an appeal, you may  
25 apply for leave to appeal in forma pauperis which simply means

1 that court costs such as filing fees will be waived. If you  
2 request, the clerk of court will prepare and file a notice of  
3 appeal on your behalf.

4 Are there any open counts or underlying indictments  
5 that need to be dismissed?

6 MS. FLODR: No, your Honor, not at this time. But one  
7 minor correction to the record. Mr. Haverkamp did not plead  
8 guilty pursuant to a plea agreement. He pled guilty pursuant  
9 to a Pimentel.

10 THE COURT: That is correct. So thank you for  
11 clarifying that.

12 So there are no limits on your right to appeal, and  
13 that should be clear for the record.

14 Mr. Haverkamp, as I said, I view this conduct as very  
15 serious, but I meant what I said. I hope that this  
16 self-reflection that you spoke about and the work that you're  
17 doing and the work that you will do when you're in more formal  
18 treatment is really helpful to you.

19 I hope you're able to turn your life around and avoid  
20 contact with any of this kind of material and, in particular,  
21 any contact with children that may endanger them. But I wish  
22 you luck with that effort.

23 Are there any other applications?

24 MS. FLODR: No, your Honor.

25 MS. GATTO: Your Honor, if you can make a

1 recommendation that he be placed in an inpatient sex offender  
2 treatment program as available through the BOP.

3 THE COURT: Yes. Absolutely. I'll make that  
4 recommendation. Thank you. We're adjourned.

5 (Adjourned)